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Attorneys for Plaintiffs  
Sigma Six Technologies, Inc. and  
Sigma Six Consulting, LLC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

San Jose Division

SIGMA SIX TECHNOLOGIES, INC., a  
New York corporation and SIGMA SIX  
CONSULTING, LLC, a New York limited  
liability company,

Plaintiff,

v.

NAGARRO, INC., a New Jersey  
corporation, T-SYSTEMS  
INTERNATIONAL GmbH, a German  
business entity, and DOES 1-100.,

Defendants.

Case No.: CV 08 5633 PVT

**STIPULATED PROTECTIVE ORDER**

**1. PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated protective order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery

1 and that the protection it affords extends only to the limited information or items that  
 2 are entitled under the applicable legal principles to treatment as confidential. The  
 3 parties further acknowledge, as set forth in Section 10, below, that this Stipulated  
 4 Protective Order creates no entitlement to file confidential information under seal; Civil  
 5 Local Rule 79-5 sets forth the procedures that must be followed and reflects the  
 6 standards that will be applied when a party seeks permission from the court to file  
 7 material under seal.

## 8 **2. DEFINITIONS**

9 2.1 Party: any party to this action, including all of its officers, directors,  
 10 employees, consultants, retained experts, outside counsel (and their support staff), and  
 11 each Party's insurance carrier (s) that are defending the claims in this action.

12 2.2 Disclosure or Discovery Material: all items or information,  
 13 regardless of the medium or manner generated, stored, or maintained (including,  
 14 among other things, testimony, transcripts, or tangible things) that are produced or  
 15 generated in disclosures or responses to discovery in this matter.

16 2.3 "Confidential" Information or Items: information (regardless of  
 17 how generated, stored or maintained) or tangible things that qualify for protection  
 18 under standards developed under F.R.Civ.P. 26(c).

19 2.4 "Highly Confidential – Attorneys' Eyes Only" Information or  
 20 Items: extremely sensitive "Confidential Information or Items" whose disclosure to  
 21 another Party or nonparty would create a substantial risk of serious injury that could  
 22 not be avoided by less restrictive means.

23 2.5 Receiving Party: a Party that receives Disclosure or Discovery  
 24 Material from a Producing Party.

25 2.6 Producing Party: a Party or non-party that produces Disclosure or  
 26 Discovery Material in this action.  
 27  
 28

1           2.7. Designating Party: a Party or non-party that designates information  
2 or items that it produces in disclosures or in responses to discovery as “Confidential” or  
3 “Highly Confidential — Attorneys’ Eyes Only.”

4           2.8 Protected Material: any Disclosure or Discovery Material that is  
5 designated as  
6 “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

7           2.9 Outside Counsel: attorneys who are not employees of a Party but  
8 who are retained to represent or advise a Party in this action.

9           2.10 House Counsel: attorneys who are employees of a Party or  
10 employed with a Party’s parent, subsidiary or affiliate.

11           2.11 Counsel (without qualifier): Outside Counsel and House Counsel  
12 (as well as their support staffs).

13           2.12 Expert: a person with specialized knowledge or experience in a  
14 matter  
15 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
16 expert witness or as a consultant in this action and who is not a past or a current  
17 employee of a Party and who, at the time of retention, Counsel does not have reason to  
18 believe is or will become an employee of a Party. This definition includes a professional  
19 jury or trial consultant retained in connection with this litigation.

20           2.13 Professional Vendors: persons or entities that provide litigation  
21 support services (e.g., photocopying; videotaping; translating; preparing exhibits or  
22 demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and  
23 their employees and subcontractors.

24           **3. SCOPE**

25           The protections conferred by this Stipulation and Order cover not only Protected  
26 Material (as defined above), but also any information copied or extracted therefrom, as  
27 well as all copies, excerpts, summaries, or compilations thereof, plus testimony,  
28

1 conversations, or presentations by parties or counsel to or in court or in other settings  
2 that might reveal Protected Material.

3 **4. DURATION**

4 Even after the termination of this litigation, the confidentiality obligations  
5 imposed by this Order shall remain in effect until a Designating Party agrees otherwise  
6 in writing or a court order otherwise directs.

7 **5. DESIGNATING PROTECTED MATERIAL**

8 5.1 Exercise of Restraint and Care in Designating Material for  
9 Protection. Each Party or non-party that designates information or items for protection  
10 under this Order must take care to limit any such designation to specific material that  
11 qualifies under the appropriate standards. A Designating Party must take care to  
12 designate for protection only those parts of material, documents, items, or oral or  
13 written communications that qualify – so that other portions of the material,  
14 documents, items, or communications for which protection is not warranted are not  
15 swept unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, routinized or over-designations are prohibited.  
17 Designations that are shown to be clearly unjustified, or that have been made for an  
18 improper purpose (e.g., to unnecessarily encumber or retard the case development  
19 process, or to impose unnecessary expenses and burdens on other parties), expose the  
20 Designating Party to sanctions. If it comes to a Party's or a non-party's attention that  
21 information or items that it designated for protection do not qualify for protection at all,  
22 or do not qualify for the level of protection initially asserted, that Party or non-party  
23 must promptly notify all other parties that it is withdrawing the mistaken designation.

24 5.2 Manner and Timing of Designations. Except as otherwise provided  
25 in this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise  
26 stipulated or ordered, material that qualifies for protection under this Order must be  
27 clearly so designated before the material is disclosed or produced.

28 Designation in conformity with this Order requires:

1 (a) for information in documentary form (apart from transcripts of  
2 depositions or other pretrial or trial proceedings), that the Producing Party affix the  
3 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
4 ONLY" at the top of each page that contains protected material. If only a portion or  
5 portions of the material on a page qualifies for protection, the Producing Party also  
6 must clearly identify the protected portion(s) (e.g., by making appropriate markings in  
7 the margins) and must specify, for each portion, the level of protection being asserted  
8 (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
9 ONLY").

10 A Party or non-party that makes original documents or materials  
11 available for inspection need not designate them for protection until after the inspecting  
12 Party has indicated which material it would like copied and produced. During the  
13 inspection and before the designation, all of the material made available for inspection  
14 shall be deemed "CONFIDENTIAL," except the Producing Party can designate a subset  
15 of the materials as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" if it has  
16 good cause to do so. After the inspecting Party has identified the documents it wants  
17 copied and produced, the Producing Party must determine which documents, or  
18 portions thereof, qualify for protection under this Order, then, before producing the  
19 specified documents, the Producing Party must affix the appropriate legend  
20 ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY") on  
21 each page that contains Protected Material. If only a portion or portions of the material  
22 on a page qualifies for protection, the Producing Party also must clearly identify the  
23 protected portion(s) (e.g., by making appropriate markings in the margins) and must  
24 specify, for each portion, the level of protection being asserted (either  
25 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY").

26 (b) for testimony given in deposition or in other pretrial or trial  
27 proceedings, that the Party or non-party offering or sponsoring the testimony identify  
28 on the record, before the close of the deposition, hearing, or other proceeding, all

protected testimony, and further specify any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of testimony that is entitled to protection, and when it appears that substantial portions of the testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the record (before the deposition or proceeding is concluded) a right to have up to 20 days to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that are appropriately designated for protection within the 20 days shall be covered by the provisions of this Stipulated Protective Order.

Transcript pages containing Protected Material must be separately bound by the court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” as instructed by the Party or nonparty offering or sponsoring the witness or presenting the testimony.

(c) for information produced in some form other than documentary, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portions, specifying whether they qualify as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. If

1 material is appropriately designated as “Confidential” or “Highly Confidential –  
2 Attorneys’ Eyes Only” after the material was initially produced, the Receiving Party, on  
3 timely notification of the designation, must make reasonable efforts to assure that the  
4 material is treated in accordance with the provisions of this Order.

5 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Unless a prompt challenge to a Designating  
7 Party’s confidentiality designation is necessary to avoid foreseeable substantial  
8 unfairness, unnecessary economic burdens, or a later significant disruption or delay of  
9 the litigation, a Party does not waive its right to challenge a confidentiality designation  
10 by electing not to mount a challenge promptly after the original designation is  
11 disclosed.

12 6.2 Meet and Confer. A Party that elects to initiate a challenge to a  
13 Designating Party’s confidentiality designation must do so in good faith and must begin  
14 the process by conferring directly (in voice to voice dialogue; other forms of  
15 communication are not sufficient) with counsel for the Designating Party. In conferring,  
16 the challenging Party must explain the basis for its belief that the confidentiality  
17 designation was not proper and must give the Designating Party an opportunity to  
18 review the designated material, to reconsider the circumstances, and, if no change in  
19 designation is offered, to explain the basis for the chosen designation. A challenging  
20 Party may proceed to the next stage of the challenge process only if it has engaged in  
21 this meet and confer process first.

22 6.3 Judicial Intervention. A Party that elects to press a challenge to a  
23 confidentiality designation after considering the justification offered by the Designating  
24 Party may file and serve a motion under Civil Local Rule 7 (and in compliance with  
25 Civil Local Rule 79-5, if applicable) that identifies the challenged material and sets forth  
26 in detail the basis for the challenge. Each such motion must be accompanied by a  
27 competent declaration that affirms that the movant has complied with the meet and  
28 confer requirements imposed in the preceding paragraph and that sets forth with

1 specificity the justification for the confidentiality designation that was given by the  
2 Designating Party in the meet and confer dialogue.

3 The burden of persuasion in any such challenge proceeding shall be on  
4 the Designating Party. Until the court rules on the challenge, all parties shall continue to  
5 afford the material in question the level of protection to which it is entitled under the  
6 Producing Party's designation.

## 7 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

8 7.1 Basic Principles. A Receiving Party may use Protected Material that  
9 is disclosed or produced by another Party or by a non-party in connection with this case  
10 only for prosecuting, defending, or attempting to settle this litigation. Such Protected  
11 Material may be disclosed only to the categories of persons and under the conditions  
12 described in this Order. When the litigation has been terminated, a Receiving Party  
13 must comply with the provisions of section 11, below (FINAL DISPOSITION).

14 Protected Material must be stored and maintained by a Receiving Party at  
15 a location and in a secure manner that ensures that access is limited to the persons  
16 authorized under this Order.

17 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
18 otherwise ordered by the court or permitted in writing by the Designating Party,  
19 a Receiving Party may disclose any information or item designated  
20 CONFIDENTIAL only to:

21 (a) the Receiving Party's Outside Counsel of record in this action,  
22 as well as employees of said Counsel to whom it is reasonably necessary to disclose the  
23 information for this litigation and who have signed the "Agreement to Be Bound by  
24 Protective Order" that is attached hereto as Exhibit A;

25 (b) the officers, directors, and employees (including House  
26 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this  
27 litigation;  
28



(c) experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order,” the copy of which shall remain in the retaining Counsel’s possession until further order of this Court requiring its production to the other Counsel. (Exhibit A);

(d) the Court and its personnel;

(e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author of the document or the original source of the information.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) the Receiving Party’s Outside Counsel of record in this action, as well as employees of said Counsel to whom it is reasonably necessary to disclose the information for this litigation, and each Party’s insurance carrier(s) that are defending the claims in this action, and who have signed the “Agreement to Be Bound by Protective Order” that is attached hereto as Exhibit A;

(b) House Counsel of a Receiving Party to whom disclosure is reasonably necessary for this litigation, and who has signed the “Agreement to Be

Bound by Protective Order,” the copy of which shall remain in that Party’s Counsel’s possession until further order of this Court requiring its production to the other Counsel. (Exhibit A);

(c) Experts (as defined in this Order) (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Agreement to Be Bound by Protective Order,” the copy of which shall remain in the retaining Counsel’s possession until further order of this Court requiring its production to the other Counsel (Exhibit A);

(d) the Court and its personnel;

(e) court reporters, their staffs, and professional vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A); and

(f) the author of the document or the original source of the information.

**8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
IN OTHER LITIGATION.**

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that caused the subpoena or order to issue.

1 The purpose of imposing these duties is to alert the interested parties to the  
2 existence of this Protective Order and to afford the Designating Party in this case an  
3 opportunity to try to protect its confidentiality interests in the court from which the  
4 subpoena or order issued. The Designating Party shall bear the burdens and the  
5 expenses of seeking protection in that court of its confidential material – and nothing in  
6 these provisions should be construed as authorizing or encouraging a Receiving Party  
7 in this action to disobey a lawful directive from another court.

8 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
10 Protected Material to any person or in any circumstance not authorized under this  
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing  
12 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve  
13 all copies of the Protected Material, (c) inform the person or persons to whom  
14 unauthorized disclosures were made of all the terms of this Order, and (d) request such  
15 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that  
16 is attached hereto as Exhibit A.

17 **10. FILING PROTECTED MATERIAL.**

18 Without written permission from the Designating Party or a court order secured  
19 after appropriate notice to all interested persons, a Party may not file in the public  
20 record in this action any Protected Material. A Party that seeks to file under seal any  
21 Protected Material must comply with Civil Local Rule 79-5.

22 **11. FINAL DISPOSITION.**

23 Unless otherwise ordered or agreed in writing by the Producing Party, within  
24 sixty days after the final termination of this action, each Receiving Party must return all  
25 Protected Material to the Producing Party. As used in this subdivision, “all Protected  
26 Material” includes all copies, abstracts, compilations, summaries or any other form of  
27 reproducing or capturing any of the Protected Material. With permission in writing  
28 from the Designating Party, the Receiving Party may destroy some or all of the

Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and that affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

## 12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 7/29/2009

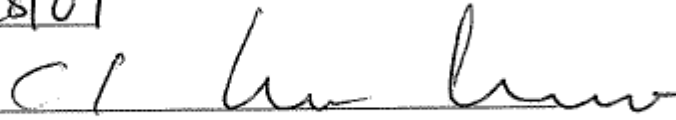



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HARMEET DHILLON  
Attorney for Plaintiffs

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2 DATED: \_\_\_\_\_

7/28/09

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4 

MICHAEL J. IOANNOU  
Attorney for Defendant Nagarro, Inc.

5  
6 DATED: 7/29/2009

7  
8  
9 \_\_\_\_\_ /s/ Michael Turco

MICHAEL TURCO  
Attorney for Defendant T-Systems GmbH

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13 PURSUANT TO STIPULATION, IT IS SO ORDERED.

14  
15 DATED: July 30, 2009 \_\_\_\_\_



16  
17 HONORABLE ]XXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
18 Patricia V. Trumbull  
19 U.S. Magistrate Judge  
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that I  
have read in its entirety and understand the Stipulated Protective Order that was issued  
by the United States District Court for the Northern District of California on [date] in  
the case of \_\_\_\_\_ **[insert formal name of the case and the number and initials  
assigned to it by the court]**. I agree to comply with and to be bound by all the terms of  
this Stipulated Protective Order and I understand and acknowledge that failure to so  
comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item that is  
subject to this Stipulated Protective Order to any person or entity except in strict  
compliance with the provisions of this Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]